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**New Process Steel, LP and District lodge 34, International Association of Machinists and Aerospace Workers, AFL–CIO. Case 25–CA–30632**

August 23, 2010

**DECISION AND ORDER**

BY CHAIRMAN LIEBMAN, AND MEMBERS SCHAUMBER  
AND PEARCE

On September 30, 2008, the two sitting members of the Board issued a Decision and Order, which is reported at 353 NLRB 254.<sup>1</sup> Thereafter, following the Respondent's petition for review in the United States Court of Appeals for the Seventh Circuit, and the General Counsel's cross-application for enforcement, the Seventh Circuit enforced the Board's Order.<sup>2</sup> However, on June 17, 2010, the United States Supreme Court issued its decision in this proceeding holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. *New Process Steel, L.P. v. NLRB*, 130 S.Ct 2635. Thereafter, the court of appeals remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.<sup>3</sup>

<sup>1</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

<sup>2</sup> The Court order enforced the Board decision in 353 NLRB 254, as well as the Board's September 25, 2008 Decision and Order, reported at 353 NLRB 111.

<sup>3</sup> Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the members who participated in the original decision. Furthermore, under the Board's standard procedures applicable to

The Board has considered the General Counsel's Motion for Summary Judgment, the Respondent's Cross-Motion for Summary Judgment and Opposition to the General Counsel's Motion, and the General Counsel's Opposition to the Respondent's Cross-Motion, and adopts the Decision and Order to the extent and for the reasons stated in the decision reported at 353 NLRB 254, which is incorporated herein by reference.<sup>4</sup>

Dated, Washington, D.C. August 23, 2010

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Wilma B. Liebman, Chairman

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Peter C. Schaumber, Member

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Mark Gaston Pearce, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

all cases assigned to a panel, the Board Members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.

<sup>4</sup> This Decision and Order is predicated on our August 23, 2010 Decision and Order reported at 355 NLRB No. 108, which adopts the decision reported at 353 NLRB 111.